

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELAINE L. CHAO, Secretary of Labor,)	
United States Department of Labor,)	
)	Civil Action
Plaintiff,)	
)	No. _____
v.)	
)	
LOCAL 234, TRANSPORT WORKERS UNION,)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiff Elaine L. Chao, Secretary of Labor, alleges as follows:

NATURE OF THE ACTION

1. This action is brought under Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (Act of September 14, 1959, 73 Stat. 519, et seq., 29 U.S.C. §§ 481-84 (the "Act")) for a judgment declaring that the September 28, 2007, election conducted by Local 234, Transport Workers Union (Defendant), is void and directing Defendant to conduct a new election with new nominations for the offices of President, Executive Vice President, three Vice Presidents, Recording Secretary, Financial-Secretary, four Executive Board Members, Transportation Division, and three Executive Board Members, Maintenance Division, under Plaintiff's supervision, and for other appropriate relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 482(b), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.
3. Venue lies in this district pursuant to 29 U.S.C. § 482(b) and 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiff, Elaine L. Chao, is the duly appointed Secretary of Labor, United States Department of Labor. Plaintiff is authorized to bring this action under section 402(b) of Title IV of the Act, 29 U.S.C. § 482(b).

5. Defendant is, and at all times relevant to this action has been, an unincorporated association maintaining its principal office at 2233 Spring Garden Street, County of Philadelphia, Pennsylvania.

6. Defendant is, and at all times relevant to this action has been, a local labor organization engaged in an industry affecting commerce within the meaning of sections 3(i), 3(j) and 401(b) of the Act (29 U.S.C. §§ 402(i), 402(j) and 481(b)).

FACTUAL ALLEGATIONS

6. Defendant is, and at all times relevant to this action has been, a local labor organization engaged in an industry affecting commerce within the meaning of sections 3(i), 3(j) and 401(b) of the Act (29 U.S.C. §§ 402(i), 402(j) and 481(b)).

7. Defendant, purporting to act pursuant to Defendant Election Committee's Election Rules, its By-Laws, and Transport Workers Union's (International) Constitution, conducted an election on September 28, 2007, for the offices of President, Executive Vice President, three Vice Presidents, Recording Secretary, Financial-Secretary, four

Executive Board Members (Transportation Division), and three Executive Board Members (Maintenance Division), which election was subject to the provisions of Title IV of the Act (29 U.S.C. §§ 481-484).

8. By letter dated October 9, 2007, to the Defendant's Executive Board, the complainant, John Johnson, a member in good standing of Defendant, protested Defendant's September 28, 2007 election.

9. On November 7, 2007, Johnson appealed to the International Secretary-Treasurer of the Transport Workers Union.

10. Having invoked the remedies available for three calendar months without receiving a final decision after invocation, the complainant filed a timely complaint with the Secretary of Labor on January 15, 2008, within the thirty days required by § 402(a)(2) of the Act, 29 U.S.C. § 482 (a)(2).

11. By letter dated March 18, 2008, the Defendant agreed that the time within which the Plaintiff may bring suit with respect to the Defendant's aforesaid election be extended to April 25, 2008.

12. Pursuant to section 601 of the Act (29 U.S.C. § 521), and in accordance with section 402(b) of the Act (29 U.S.C. § 482(b)), the Plaintiff investigated the complaint and, as a result of the facts shown by her investigation, found probable cause to believe that: (1) violations of Title IV of the Act (29 U.S.C. §§ 481-484) had occurred in the conduct of the Defendant's September 28, 2007 election; and (2) that such violations had not been remedied at the time of the institution of this action.

CAUSE OF ACTION

13. Defendant violated section 401(e) of the Act, 29 U.S.C. § 481(e), in the conduct of its aforesaid election by:

- (a) applying a nomination procedure that disqualified a member in good standing (Mick Ostrowski) from running for office and thereby denying him a reasonable opportunity to be nominated and to be a candidate for office;
- (b) applying two separate nomination procedures together to disqualify thirteen members in good standing from running for office as a slate of candidates, and thereby denying those members a reasonable opportunity to be nominated and to be candidates for office; and
- (c) denying members the right to vote for and otherwise support the candidates of their choice.

14. The violations of section 401(e) of the Act (29 U.S.C. § 481(e)) may have affected the outcome of the Defendant's election for the offices of President, Executive Vice President, three Vice Presidents, Recording Secretary, Financial-Secretary, four Executive Board Members (Transportation Division), and three Executive Board Members (Maintenance Division).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment:

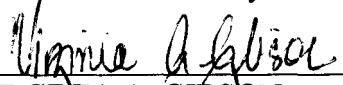
- (1) Declaring the Defendant's September 28, 2007, election for the offices of President, Executive Vice President, three Vice Presidents, Recording Secretary, Financial-Secretary, four Executive Board Members (Transportation Division), and three Executive Board Members (Maintenance Division) void;

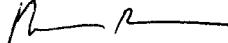
- (2) Directing the Defendant to conduct a new election, with new nominations, for those offices, under the supervision of the Plaintiff;
- (3) For the costs of this action; and
- (4) For such other relief as may be appropriate.

Respectfully submitted,

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